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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,496	07/16/2003	Jodi Breslin	72167.000410	8830
21967 7590 12/23/2009 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109				
EXAMINER				
BOYCE, ANDRE D				
ART UNIT		PAPER NUMBER		
3623				
MAIL DATE		DELIVERY MODE		
12/23/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/619,496

Applicant(s)

BRESLIN ET AL.

Examiner

Andre Boyce

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-19, 27-29 and 31-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-19, 27-29 and 31-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notes of Informal Patent Application~~
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 10, 2009 has been entered.
2. Claims 1-3, 5, 6, 11, 14, 15, 27-29, 31, 32, 36 and 37 have been amended.
Claims 1-3, 5-19, 27-29 and 31-41 are pending.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
4. Claims 1-3 and 5-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to a particular machine or apparatus, or (2) transform a particular article to a different state or thing. *In re Bilski*, 545 F.3d 943, 88 USPQ2d 1385 (Fed. Cir. 2008). If neither of these requirements is met by the

claim, the method is not a patent eligible process under §101 and is non-statutory subject matter.

With respect to independent claim 1, the claim language recites the steps of collecting department information, storing the department information in a database, assessing a criticality, storing the assessment of the criticality in a database etc., however the claim language does not include the required tie or transformation. Moreover, the recitation of storing various types of information and data in the database is considered a nominal tie, since it is insignificant extra-solution activity that does not satisfy the requirement.

Claims 2, 3 and 5-19 are rejected based upon the same rationale, wherein the claim language does not include the required tie or transformation.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 1-3, 5-14, 17-19, 27-29, 31-36 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobs et al (USPN 5,185,697), in view of Davenport et al (US 2004/0103431).

As per claim 1, Jacobs et al disclose a method for providing business continuity in an enterprise (i.e., crisis management, column 2, lines 62-68) comprising: storing the department information in a database (i.e., topic files in central computer store 114, column 5, lines 20-35); assessing a criticality of the at least one department

(i.e., some topic files are employed for all crisis situations, whereas other topic files are specific to the crisis situation); storing the assessment of the criticality of the at least one department in the database (i.e., topic files in central computer store 114, column 5, lines 20-35); storing the recovery plan in the database (i.e., topic files in central computer store 114, column 5, lines 20-35), wherein the recovery plan aims to ensure the business continuity of the at least one department (i.e., activation of topic files required to organize the information for the selected crisis, column 5, lines 37-41); assessing the recovery plan (i.e., crisis team member analyzes information with respect to the crisis, column 6, lines 45-46); storing the assessment of the recovery plan in the database (i.e., relevant information input in computer 114, column 6, lines 46-50); testing the recovery plan and recording the results of the testing (i.e., recovery plan involves selecting crisis type, receiving information, selecting topic file, inputting information, attaching a time tag, organizing information chronologically, updating relevant files, figure 2); storing the recorded results of the testing in the database (i.e., archive 30, figure 2); and providing status data from the database (i.e., status of crisis topic, table 2), wherein the status data comprises at least one of a status of: the collection of the department data (i.e., automatic updates topic files related to selected topic filed with the information, column 6, lines 1-11); the assessment of the criticality; the development of the recovery plan; and the testing of the recovery plan.

Jacobs et al does not explicitly disclose collecting department information, describing at least one department within the enterprise and developing a recovery

plan for recovery from degradation of a functionality of the at least one department. Davenport et al disclose collecting critical facility information, wherein the facility may be a school, workplace, or any other public or private facility (§§ 0004, 0008 and 0010), and development of an emergency plan for the facility (§ 0037). It would have been obvious to one of ordinary skill in the art to include collecting department information, describing at least one department within the enterprise and developing a recovery plan for recovery from degradation of a functionality of the at least one department in the Jacobs et al system, as seen in Davenport et al, since the claimed invention is merely a combination of old elements, and in the combination each element would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 2, Jacobs et al disclose the step of collecting department information further comprises at least one of: collecting department information with respect to the department name (i.e., information received from agency database, e.g., FBI, CIA FCC or Red Cross, column 5, lines 43-47); collecting department information with respect to the department manager; collecting department information with respect to a primary location of the department, collecting department information with respect to a recovery location of the department; collecting department information with respect to products and services provided by the department; collecting department information with respect to a total number of

production seats required by the department; and collecting department information with respect to a number of specialized production seats required by the department.

As per claim 3, Jacobs et al disclose wherein a loss of use of the primary location is assumed (i.e., natural disaster crisis is realized, column 5, lines 10-12). Jacobs et al does not disclose the steps of collecting department information with respect to the total number of production seats and the specialized production seats further comprises at least one of: determining how many of each type of seat is required a same day as the loss of use of the primary location; determining how many of each type of seat is required a day after the loss of use of the primary location; determining how many of each type of seat is required a week after the loss of use of the primary location; and determining how many of each type of seat is required a month after the loss of use of the primary location. Davenport et al disclose a detailed map or schematic of a floor plan of a facility, including room numbers and functions of the room (i.e., determining how many of each type of seat is required a same day as the loss of use of the primary location, ¶ 0044). It would have been obvious to one of ordinary skill in the art to include a detailed map or schematic of a floor plan of a facility, including room numbers and functions of the room in the Jacobs et al system, as seen in Davenport et al, since the claimed invention is merely a combination of old elements, and in the combination each element would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 5, Jacobs et al disclose the step of collecting department information further comprises at least one of: collecting department information with respect to software applications relied on by the department; and collecting department information with respect to external vendors relied on by the department (i.e., remote units 200 representing outside sources of information, column 6, lines 30-35).

As per claim 6, Jacobs et al disclose wherein as part of the step of assessing the criticality of the department, the degradation of a functionality of the department is assumed, the step of assessing the criticality of the department further comprises at least one of: assessing an impact on external customers of the enterprise resulting from the degradation of the functionality of the department (i.e., victims of the crisis, column 5, lines 30-35); assessing an impact on internal customers of the enterprise resulting from the degradation of the functionality of the department; assessing a financial impact resulting from the degradation of the functionality of the department; assessing an allowable time period that the degradation of the functionality of the department can last; assessing an impact on regulatory obligations resulting from the degradation of the functionality of the department; and assessing an impact on legal obligations resulting from the degradation of the functionality of the department.

As per claim 7, Jacobs et al disclose assigning specific people to fulfill roles in a case of interruption of the business of the enterprise (i.e., top decision makers located at the crisis command center, column 6, lines 27-29), wherein the roles include at least one of: building emergency organization chairperson; business

executive (i.e., executive summary, table 2); facilities regional manager; and human departments coordinator.

As per claim 8, Jacobs et al disclose receiving acknowledgements of the acceptances of the assignments from the specific people (i.e., remote units 200 as investigative units communicating with the crisis command center 100, where the top decision makers are located, column 6, lines 24-35).

As per claim 9, Jacobs et al disclose assigning alternate people to fulfill the roles (i.e., remote units 200 as investigative units communicating with the crisis command center 100, where the top decision makers are located, column 6, lines 24-35).

As per claim 10, Jacobs et al disclose the role of building emergency organization chairperson comprises at least one of: overseeing recovery activities in the event of an emergency; providing status on the recovery activities (i.e., status of crisis, table 2); prioritize resumption of critical functions; and compiling a list of all business units in a facility and their designated assembly areas, and recovery sites.

As per claim 11, Jacobs et al disclose the role of business executive comprises at least one of: assessing a risk exposure for the enterprise as a result of an emergency; declaring a disaster recovery condition (i.e., current supplies, incoming aid, injuries, shortages, etc., in a natural disaster, column 5, lines 33-35); and prioritizing the reentry of employees to the building.

As per claim 12, Jacobs et al disclose the role of facilities regional manager comprises at least one of: ordering partial or total evacuation of a facility; determining an anticipated length of the outage of a facility; supervising activities to

restore the facility; providing status of the facility (i.e., current supplies, incoming aid, injuries, shortages, etc., in a natural disaster, column 5, lines 33-35); coordinating with local police, fire and other public safety officials.

As per claim 13, Jacobs et al disclose the role of human departments coordinator comprises at least one of: accounting for employees in an emergency at a facility; coordinating activities to seek out employees who are not accounted for in the emergency; generating lists of names and employee contact information for employees at the affected facility (i.e., crisis team members extracting information from a database including a victim's name, address, age, medical record and closest relative, column 10, lines 25-41), and maintaining hard-copy printouts of employee contact information.

As per claim 14, Jacobs et al disclose the step of collecting department information further comprises: collecting employee information with respect to the employees of the department, the employee information including at least three of: the employee's name; primary work location; primary work region; primary work phone number; primary work facsimile number; pager number, pager Personal Identification number, cellular phone number; home phone number; alternate home phone number, personal internet addresses; alternate work location; alternate work address; and alternate work phone number (i.e., crisis team members extracting information from a database including a victim's name, address, age, medical record and closest relative, column 10, lines 25-41).

As per claim 17, Jacobs et al disclose all of the steps are facilitated using a software application (i.e., central computer 114, figure 1), the method further comprising: generating data input screens for accepting input from a user (i.e., keyboard 120, figure 1). Jacobs et al does not disclose providing drop down boxes on the data input screens in order to facilitate selection of predefined information. Davenport et al disclose selecting graphical objects on the electronic plan such as by using directional arrow keys (§ 0061). It would have been obvious to one of ordinary skill in the art to include providing drop down boxes on the data input screens in order to facilitate selection of predefined information in the Jacobs et al system, as seen in Davenport et al, since the claimed invention is merely a combination of old elements, and in the combination each element would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 18, Jacobs et al does not disclose questioning the developer of the plan as to whether it has required elements; and developing a corrective action plan to address missing required elements. Davenport et al disclose an analysis and review of an existing emergency plan to form the basis for eliminating shortfalls identified and serve as the basis for an updated emergency plan (§ 0038). It would have been obvious to one of ordinary skill in the art to include questioning the developer of the plan as to whether it has required elements; and developing a corrective action plan to address missing required elements in the Jacobs et al system, as seen in Davenport et al, since the claimed invention is merely a

combination of old elements, and in the combination each element would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 19, Jacobs et al disclose providing status data on the enterprise level (i.e., status of the crisis in topic file is updated and disseminated to all team members involved, table 2 and column 6, lines 58-60); providing status data on a line of business level (i.e., status of the crisis in topic file is updated and disseminated to all team members involved, table 2 and column 6, lines 58-60); and providing status data on a department level (i.e., status of the crisis in topic file is updated and disseminated to all team members involved, table 2 and column 6, lines 58-60).

Claims 27-29, 31-36 and 39-41 are rejected based upon the same rationale as the rejections of claims 1-3, 5-9, 14 and 17-19, respectively, since they are the system claims corresponding to the method claims.

7. Claims 15, 16, 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobs et al (USPN 5,185,697), in view of Davenport et al (US 2004/0103431), in further view of Sudia (US 2005/0114653).

As per claims 15-16, Jacobs et al does not disclose generating a wallet card for the employee using the employee information, wherein the wallet card is generated at a workstation of the employee, and the wallet card contains a hotline, a website, and at least one emergency location that the employee can use in an emergency.

Sudia discloses a certification authority giving a user a wallet card containing contact information pertaining to a lost, stolen, destroyed or compromised machine (§ 0056). It would have been obvious to one of ordinary skill in the art to include a wallet card in the Jacobs et al system, as seen in Sudia, since the claimed invention is merely a combination of old elements, and in the combination each element would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claims 37-38 are rejected based upon the same rationale as the rejections of claims 15-16, respectively, since they are the system claims corresponding to the method claims.

Response to Arguments

8. In the Remarks, with respect to claim 1, Applicant argues Jacobs does not disclose developing a recovery plan for recovery from a degradation of a functionality of the at least one department. The Examiner submits that Jacobs, in view of Davenport indeed discloses Applicant's amended limitations, as seen in the above rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571)272-6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andre Boyce/
Primary Examiner, Art Unit 3623
December 18, 2009